IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

WP(C).No. 22622 of 2007(R)

PETITIONER:

VENKITACHALAM,S/O.SUBRAMANIAN,
AGED 65,SREERAM HOUSE,JAYAPRAKASH LANE,
PONKUNNAM,THRISSUR DISTRICT.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER AND SECRETARY TO GOVERNMENT,TRANSPORT DEPARTMENT,GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM.

3. THE REGIONAL TRANSPORT AUTHORITY WAYANAD,REPRESENTED BY ITS SECRETARY.

4. THE DISTRICT TRANSPORT OFFICER, K.S.R.T.C,WAYANAD.

5. THE SECRETARY,REGIONAL TRANSPORT AUTHORITY,THRISSUR.

6. THE SECRETARY,REGIONAL TRANSPORT AUTHORITY,KOZHIKODE,REPRESENTED BY ITS SECRETARY.

7. THE SECRETARY,REGIONAL TRANSPORT AUTHORITY,KOZHIKODE.

BY ADV. SHRI.JOHNSON P.JOHN, SC, KSRTC
GOVERNMENT PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.22622/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE ORIGINAL PERMIT ISSUED IN FAVOUR OF SRI. BAIJU ANTORY IS PRODUCED HEREWITH AND MARKED AS

EXT.P2: TRYE COPY OF THE ENDORSEMENT MADE IN THE ORIGINAL PETITION WITH RESPECT OF TRANSFER OF PERMIT IN THE NAME OF THE PETITIONER.

EXT.P3: TRUE COPY OF THE DECISION DATED 12.4.2007 ISSUED BY THE R.T.A. WAYANAD, THAT AUTHORITY.

EXT.P4: TRUE COPY OF THE ODER DATED 11.6.2007 IN M.V.A.R.P. NO.226/2007 ISSUED BY THE S.T.A.T. ERNAKULAM.

EXT.P5: TRUE COPY OF THE DECISION DATED 12.6.2007 ISSUED BY THE R.T.A. KOZHIKODE.

EXT.P6: TRUE COPY OF THAT NOTIFICATION DATED 9.5.2006 ISSUED BY THE GOVT. OF KERALA.

EXT.P7: TRUE COPY OF THE JUDGMENT IN M.V.A.A. 288/2007 ISSUED BY THE S.T.A.T. ERNAKULAM.

EXT.P8: TRUE COPY OF JUDGMENT IN O.P. NO.7211/1999 OF THIS HONOURABLE COURT.

EXT.P9: TRUE COPY OF HE JUDGMENT IN W.P.(C) NO.10957/2006 OF THIS HONOURABLE COURT.

EXT.P10: TRUE COPY OF THE PROCEEDINGS DATED 9.10.2007 OF THE S.T.A. THRIUVANANTHAPURAM.

ANTONY DOMINIC, J.

W.P.(C)NO.22622 OF 2007 - R

Dated this the 1st day of December, 2007.

JUDGMENT

The prayer made in this writ petition is to quash Exts.P3, P4,P5 and P7. Application of the petitioner for regular permit on the route Trichur - Mananthavady was rejected by the 3rd respondent finding that there is violation of Rule 2(oa) of K.M.V. Rules and this decision of the R.T.O was confirmed by the Tribunal in Ext.P4.

2. Petitioner has produced Ext.P10 proceedings of the State Transport Appellate Authority, where the STA has decided to move the Government for amending Rule 2(oa) so as to save the existing LSOS services having route length above 140 kms. In Ext.P10, it is also directed that R.T.A will permit the existing operators to continue their services on the strength of the regular permit or temporary permit for a period of four months on expiry of their regular permits. In view of the decision of the STA, the very basis for Exts.P3 and P5 stands altered calling for a reconsideration in the matter.

3. Accordingly, Exts.P3 and P4 will stand quashed and the matter will be reconsidered by the 3rd respondent as expeditiously as possible, at any rate, within eight weeks from the date of production of a copy of this judgment.

4. Petitioner refers to Ext.P5 by which his application for temporary permit was also rejected. It is submitted that the said rejection was again on the basis of Ext.P3, which I have already set aside. The decision on Ext.P5 was also confirmed by the STAT in an appeal filed by the petitioner by Ext.P7 judgment. Since the basis for Exts.P5 and P7 is Ext.P3, which is already set aside, these orders viz Exts.P5 and P7, also will stand set aside. Accordingly, the 7th respondent shall consider the petitioner's application for temporary permit as expeditiously as possible, at any rate, within three weeks from the date of production of a copy of this judgment.

5. Respondents 3 and 7 shall reconsider the matter as above with notice to the KSRTC. It is open to the KSRTC to raise all their contentions which they have raised in the counter affidavit.

The writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

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